

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JON ROYAL FLEMING,

Petitioner,

v.

KEN QUINN,

Respondent.

Case No. C05-5719RJB

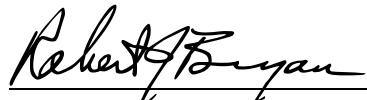
ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DENYING MOTIONS AND
PETITION FOR WRIT OF HABEAS
CORPUS

The Court having reviewed the Report and Recommendation of the U.S. Magistrate Judge J. Kelley Arnold, petitioner's objections to the Report and Recommendation (Dkt. 62, 75, and 83), respondent's responses, and the remaining record, does hereby find and Order:

- (1) In accord with the Report and Recommendation, petitioner's motions for injunctive relief (Dkt. 41, 45, and 47) are **DENIED**.
- (2) Petitioner's motion to amend/add supplemental pleadings (Dkt. 60), motion for leave to withdraw documents 41 and 45 (Dkt. 64), and motion for leave to motion (Dkt. 66) are without merit and are accordingly **DENIED**.
- (3) Petitioner's appeals from the orders of the magistrate judge order (Dkt. 65 and 67) are without merit. The orders of the magistrate judge are **AFFIRMED**.
- (4) Petitioner's motion for a lesser standard in pleadings, content and length (Dkt. 74) is unnecessary and is **STRICKEN**.
- (5) Petitioner's motion for extension of time to file traverse (Dkt. 63) is **DENIED**, as petitioner filed a traverse on May 24, 2006, and this motion is an attempt to add an additional legal claim and legal basis that was not exhausted in state court and is not cognizable in a habeas corpus petition.

- 1 (6) To the extent that Petitioner's Objection/Appeal to Order Denying Petitioners [sic]
2 Motion for Extension of Time (Dkt. 77) and Petitioner's Objection/Appeal to 2nd
3 Order Denying Petitioners [sic] Motion for Time Extension (Dkt. 81) are intended to
4 be motions for reconsideration, those motions are without merit and are **DENIED**.
5 To the extent that Dkt. 77 and 81 were intended to be appeals of the orders of this
6 court to the Ninth Circuit U.S. Court of Appeals, the Clerk is directed to process
7 these documents (Dkt. 77 and 81) as appeals.
- 8 (7) Petitioner's request for appointment of counsel (Dkt. 81, at 4) is **DENIED** because
9 petitioner has not shown either likelihood of success on the merits or lack of the
10 ability to articulate the claims *pro se* in light of the complexity of the legal issues
11 involved.
- 12 (8) The Report and Recommendation (Dkt. 54) is **ADOPTED**. The petition is
13 **DENIED** in accord with the well reasoned Report and Recommendation. This case is
14 **DISMISSED WITH PREJUDICE**.
- 15 (9) In the event that petitioner files an appeal of the decision(s) of this court, a Certificate
16 of Appealability is **DENIED** because petitioner has not made a substantial showing of
17 the denial of a constitutional right. 28 U.S.C. § 2253(c)(3).
- 18 (10) The clerk is directed to send copies of this order to Petitioner, counsel for
19 Respondent, and to the Hon. J. Kelley Arnold.

20 DATED this 14th day of August, 2006.

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23 Robert J. Bryan
24 United States District Judge
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